



STATE BOARD OF EQUALIZATION

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CYNTHIA BRIDGES
Executive Director

December 18, 2014

VIA INTERNET

Dear Interested Party:

The Compliance Policy and Procedures Manual (CPPM) is a guide for the Board of Equalization (BOE) staff in administering tax and fee programs. It is available to the public and can be accessed from the BOE web page at <http://www.boe.ca.gov/sutax/staxmanuals.htm>.

The Sales and Use Tax Department (SUTD) is proposing to revise CPPM sections 732.050 and 755.010 – 755.020. Section 732.050 is being revised to increase the threshold amount for initiating a successor liability billing. Sections 755.010 – 755.020 are being revised to incorporate legislation that increased the threshold amount for an individual's weekly disposable earnings, thus reducing the amount subject to levy under an Earnings Withholding Order. The revision material is provided on the following pages for the convenience of interested parties who may wish to submit comments or suggestions. Please feel free to publish this information on your website or otherwise distribute it to your association/members.

If you have any comments or suggestions related to the proposed CPPM revisions, you may contact the BOE at CPPM.RevisionSuggestions@boe.ca.gov. Your comments or suggestions must be received by BOE no later than **February 18, 2015**, in order to be considered by staff. Thank you for your consideration.

Sincerely,

A handwritten signature in dark ink that reads "Susanne Buehler".

Susanne Buehler, Chief
Tax Policy Division
Sales and Use Tax Department

SUCCESSOR BILLINGS

732.050

The law requires the BOE to issue a notice of successor liability to the purchaser of a business or stock of goods in order to enforce the purchaser's successor liability. A notice of successor liability is issued for any amount owed by the predecessor over ~~\$100~~500, up to the purchase price of the business or stock of goods. Once the notice of successor liability is mailed, the successor has 30 days to petition the liability prior to the initiation of collection action (RTC section 6814). If the successor files a timely petition of the amount determined to be due, the account will not enter into active collection status in ACMS pending the outcome of the petition.

WAGE GARNISHMENTS

755.000

GENERAL

755.010

The state is the levying officer for wage garnishments (Code of Civil Procedure (CCP) section 706.074). Earnings owed to a taxpayer by his or her employer are only reachable by:

1. Earnings Withholding Order for Taxes (EWO), (Form BOE-425-E).
2. Jeopardy Earnings Withholding Order for Taxes (Form BOE-425-E).

EWO's may not only be served on out-of-state employers ~~when the employee's job location and residence is also outside the state~~in certain circumstances (see CPPM section 731.025). Following is a description of each of these instruments, as well as instructions for their use.

EARNINGS WITHHOLDING ORDER FOR TAXES (EWO)

755.020

Receipt of an EWO generally requires the employer to begin withholding earnings on the first workday occurring ten or more days after service of the EWO. Under CCP 706.074 and USC Title 15, section 1673, the maximum amount that may be withheld from the aggregate disposable earnings of an individual for any workweek is the lesser of:

1. Twenty-five percent (25%) of weekly disposable earnings~~, or~~
2. The amount of weekly disposable earnings that exceed ~~30 times the federal 40 times the state~~ minimum hourly wage in effect at the time the earnings are payable.

The EWO remains in effect until the total amount indicated in the EWO is paid or the EWO is withdrawn. If the taxpayer terminates his or her employment, the EWO continues in effect for one year after such termination. If employment resumes (with the same employer) within the year following termination, the EWO remains in effect.

Priority

~~The EWO has priority over all private creditors except Orders Assigning Salary (for support) and Earnings Withholding Orders for Support. These apply to child and or spousal support. If a residual amount of disposable earnings remains after the employer withholds the amounts required by either of these orders, then the Board of Equalization's (BOE) EWO may reach the residual amount.~~

~~Under the doctrine of "first in time is first in right," an EWO served upon the employer by another state agency will have priority over the BOE's EWO if the employer receives the other agency's EWO first. Similarly, if the BOE and the I.R.S. serve an EWO upon the State Controller to attach a state employee's wages, the first EWO received by the State Controller takes priority.~~

Priority for Earnings Withholding Orders is as follows:

1. Court Order Assigning Salary/Wages (for support), and Earnings Withholding Order for Support
2. Earnings Withholding Order for Taxes
3. Earnings Withholding Order

An EWO served by court order takes precedence over other wage garnishments. However, if a residual amount of disposable earnings remains after the employer withholds the amounts required by the court-ordered EWO, then BOE's EWO may reach the residual amount.

Regarding EWOs for taxes, the rule is "first in time is first in right." Only one EWO for taxes may be in effect at any given time. If an employer is withholding under a prior EWO for taxes, any subsequent EWO for taxes is ineffective and must be withdrawn until the prior has been satisfied or withdrawn. This is true even if the prior EWO for taxes was modified to require less than the amount allowed under the law.

*****NOTE*****

CPPM section 755.020 continues, however no changes are being made to the rest of the section at this time.